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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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94140	7590	09/29/2010	EXAMINER	
Merchant & Gould - Cox PO Box 2903 Minneapolis, MN 55402			BOYCE, ANDRE D	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/558,755	Applicant(s) HOSEA ET AL.	
	Examiner Andre Boyce	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 64-94 and 109 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 64-94 and 109 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/14/10 has been entered.
2. Claims 64, 72, 77-80, 87, 88, 93, 94 and 109 have been amended, while claims 95-108 have been canceled. Claims 64-94 and 109 are pending.
3. The previously pending rejection to claims 64-109 under 35 U.S.C. 112, first paragraph, has been withdrawn.

The previously pending rejection to claims 95-108 under 35 USC § 101 has been withdrawn as moot.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 109 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Independent claim 109 recites "[a] computer readable medium ..." The broadest reasonable interpretation of a claim drawn to a computer-readable medium typically covers forms of non-transitory tangible media and transitory propagating signals per se in view of the ordinary and customary meaning of computer readable media, particularly when the specification is silent (i.e., Applicant's specification seems to be silent), or open-ended. See MPEP 2111.01. As such, the claim is rejected as covering a signal per se, which is not directed towards statutory subject matter.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 64-71, 77, 80-87, 93 and 109 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (USPN 6,285,987) in view of Armbruster et al (USPN 6,243,760), in further view of Bull et al (USPN 6,208,975).

As per claim 64, Roth et al disclose a method of profiling a Web user (via view-opportunity/view-op, see column 2, lines 11-14), comprising: anonymously capturing packets identified as being associated with Web page requests anonymously (i.e., IP data about a viewer, column 8, lines 20-28); associating each extracted URL with the user identifier correlated with the extracted IP address (i.e., IP data about the user is presented to the system at view-op time, column 8, lines 20-28); for each user identifier correlated with the extracted IP address, storing the URL of the requested Web page and the user identifier correlated with the extracted IP address

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(i.e., IP data about the user is presented to the system at view-op time, column 8, lines 20-28, and viewer history data, including historical data about a unique viewer, column 8, lines 65-67 and database of viewer information 16B, figure 1), and developing a user profile the user identifier, based on the extracted URLs associated with Web pages requested by a client having the user IDs (i.e., updating of viewer history data, column 8, lines 65-67 and column 9, lines 1-4), and cross referencing Web site profiles (i.e., web site demographic data, column 9, lines 13-14) with the extracted URLs associated with Web pages requested by the user identifier to generate an updated user profile (i.e., IP data about the user is presented to the system at view-op time, column 8, lines 20-28, and viewer history data, including historical data about a unique viewer, column 8, lines 65-67 and database of viewer information 16B, figure 1).

Roth et al does not explicitly disclose monitoring packets at an Internet Service Provider (ISP) point of presence (POP); identifying monitored packets associated with Web page requests; capturing, at an Internet Service Provider (ISP) point of presence (POP), packets associated with Web page requests; extracting, at the ISP POP, a Uniform Resource Locator (URL) of the requested Web page and an IP address of the packets identified as being associated with the Web page request; processing the extracted IP address to correlate the extracted IP address with a user identifier using a cross-reference table at the ISP POP; storing the URL of the requested Web page and the user identifier correlated with the extracted IP address at the ISP POP; and generating an updated user profile, at the ISP POP.

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Armbruster et al disclose the content provider can now control and monitor access to its site (column 2, lines 66-67), including a daemon 15 that monitors which files are being uploaded (column 5, lines 13-14). Moreover, Armbruster et al disclose all packets are forwarded to Ethernet port 1/4 in the ISP 8 and subsequently to the local cache server, wherein the client's browser via the DNS (Domain Name Server) 20 and, using UTP, resolves and returns the IP address of www.cp3.com. Once returned, a TCP connection is set up in the usual way through the Internet 9 and all IP packets are routed, by the ISP router 17, in a standard fashion to the client 16 from the content provider 12 (column 5, lines 56-67). Armbruster et al also disclose a cache located at an ISP's point-of-presence (column 3, lines 34-36), wherein the ISP includes a local caching complex 10, consisting of servers and storage devices for identifying and storing cacheable web pages, filtering software, and web sites (column 3, lines 59-64), including the URLs associated with the cached items (column 4, lines 45-49), and forwarding packets to the ISP local cache (column 5, lines 56-60).

Neither Roth et al nor Armbruster et al disclose generating an updated user profile, based on inferred user demographics of the Web sites requested by the user identifier. Bull et al discloses the user's web viewing patterns monitored and matched against software text agents to match a profile (see column 15, lines 14-19), including user demographics.

Roth, Armbruster, and Bull are concerned with effective storage and retrieval of information from the Internet, therefore it would have been obvious to one having

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ordinary skill in the art at the time the invention was made to include monitoring packets at an Internet Service Provider (ISP) point of presence (POP); identifying monitored packets associated with Web page requests; capturing, at an Internet Service Provider (ISP) point of presence (POP), packets associated with Web page requests; extracting, at the ISP POP, a Uniform Resource Locator (URL) of the requested Web page and an IP address of the packets identified as being associated with the Web page request; processing the extracted IP address to correlate the extracted IP address with a user identifier using a cross-reference table at the ISP POP; storing the URL of the requested Web page and the user identifier correlated with the extracted IP address at the ISP POP; and generating an updated user profile, at the ISP POP and generating an updated user profile, at the ISP POP, based on inferred user demographics of the Web sites requested by the client having the user ID in Roth et al, as see in Armbruster and Bull, respectively, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 65, Roth et al disclose data selected from demographic data (see column 2, lines 14-19).

As per claim 66, Roth et al disclose said demographic data is selected from the group consisting of user's age, gender, income, and highest attained education level (i.e., age, sex, income, etc., column 9, lines 1-2).

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As per claims 67-68, Roth et al disclose psychographic data including data on the user's interests (viewer history data, see column 8, lines 65-67).

As per claim 69, Roth et al disclose providing a database associating each of said plurality of Web sites with demographic characteristics of known persons who have accessed said sites (database 16D, see column 18, lines 51-53).

As per claim 70, neither Roth et al, Armbruster et al, nor Bull et al disclose said database provided by a Web site ratings service. However, Roth et al disclose Web site demographic data collected from commercial sources (see column 18, lines 51-53), therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a database provided by a Web site rating service in Roth et al, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claim 71, Roth et al disclose updating an existing user profile (see column 4, lines 30-31).

As per claim 77, Roth et al disclose delivering selective advertising to said user based on his or her profile (see column 4, lines 58-61).

Claims 80-87 and 93 are rejected based upon the same rationale as the rejection of claims 64-71 and 77, respectively, since they are the computer claims corresponding to the method claims.

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Claim 109 is rejected based upon the same rationale as the rejection of claim 64, since it is the computer readable medium claim corresponding to the method claim.

7. Claims 72-75, 79 and 88-91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (USPN 6,285,987) in view of Armbruster et al (USPN 6,243,760), in further view of Bull et al (USPN 6,208,975), in further view of Sheena et al (USPN 6,049,777).

As per claims 72 and 75, neither Roth et al, Armbruster et al, nor Bull et al disclose combining the profiles of the Web sites accessed by the user to the existing user profile using an averaging algorithm and the average rating is determined using a clustering algorithm. Sheena et al disclose using an averaging algorithm to calculate a similarity factor between a pair of users (see column 8, lines 47-49), based on their ratings of a product. Sheena et al also disclose clustering algorithms (see column 22, lines 33-36) used to calculate the mean of the rating given to each item a user has rated. Sheena et al also disclose the method working equally as well for items having many features of interest (see column 19, lines 9-13), such as web site and user profiles. Further, both Roth et al and Sheena et al are concerned with user profiles, and product recommendation, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include using an averaging algorithm to combine the profiles of the web site and user and determining the average rating using a clustering algorithm in Roth et al, as seen in Sheena et al, since the claimed invention is merely a combination of old

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elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

As per claims 73 and 74, neither Roth et al, Armbruster et al, nor Bull et al disclose user profile includes data on a plurality of demographic categories, each associated with a rating, and the method further comprises filling in a value for the rating for any demographic category having a low confidence measure and using an average rating of persons having similar profiles to that of said user for a category having a low confidence measure. Sheena et al disclose using an averaging algorithm to calculate a similarity factor between a pair of users (see column 8, lines 47-49), based on their ratings of a product. Further, Sheena et al disclose items with low confidence factors (see column 10, line 10), and correlation between neighboring users (see column 10, lines 20-23). Both Roth et al and Sheena et al are concerned with user profiles, and product recommendation, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include filling in a value for the rating for any demographic category having a low confidence measure and using an average rating of persons having similar profiles to that of said user for a category having a low confidence measure, in Roth et al, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

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As per claim 79, neither Roth et al, Armbruster et al, nor Bull et al disclose generating, for a user associated a user ID, a user profile having a rating for categories of Web sites of interest to the user and a confidence measure representing an estimate of accuracy of a category's rating. Sheena et al disclose using an averaging algorithm to calculate a similarity factor between a pair of users (see column 8, lines 47-49), based on their ratings of a product. Further, Sheena et al disclose items with low confidence factors (see column 10, line 10), and correlation between neighboring users (see column 10, lines 20-23). Both Roth et al and Sheena et al are concerned with user profiles, and product recommendation, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include generating, for a user associated a user ID, a user profile having a rating for categories of Web sites of interest to the user and a confidence measure representing an estimate of accuracy of a category's rating, in Roth et al, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claims 88-91 are rejected based upon the same rationale as the rejection of claims 72-75, respectively, since they are the computer claims corresponding to the method claims.

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8. Claims 76 and 92 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (USPN 6,285,987) in view of Armbruster et al (USPN 6,243,760), in further view of Bull et al (USPN 6,208,975), in further view of Eldering (USPN 6,298,348).

As per claim 76, neither Roth et al, Armbruster et al, nor Bull et al explicitly disclose erasing records of which Web sites said user has visited after developing the user's profile to protect user privacy. Eldering discloses maintaining consumer privacy via private data networks (see column 4, lines 62-65). Both Roth and Eldering are concerned with consumer demographic information collection, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include maintaining consumer privacy in Roth et al, as seen in Eldering, via deletion of records, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claim 92 is rejected based upon the same rationale as the rejection of claim 76, since it is the computer claim corresponding to the method claim.

9. Claims 78 and 94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roth et al (USPN 6,285,987) in view of Armbruster et al (USPN 6,243,760), in further view of Bull et al (USPN 6,208,975), in further view of Park et al (USPN 6,295,061).

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As per claim 78, neither Roth et al, Armbruster et al, nor Bull et al disclose transmitting pop-up and banner advertisements to a display of a computer operated by the user. Park et al disclose banner advertisement (see column 1, lines 30-33), and pop-up advertisement over the internet (see column 2, lines 1-2). Both Roth et al and Park et al are concerned with effective advertising via the internet, therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include pop-up and banner advertisement in Roth et al, since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claim 94 is rejected based upon the same rationale as the rejection of claim 78, since it is the computer claim corresponding to the method claim.

Response to Arguments

10. In the Remarks, Applicant argues Roth fails to disclose a plurality of functions occurring at the ISP point of presence (POP). The Examiner notes that Roth is not cited as disclosing any functions performed at the ISP POP, however, Armbruster et al disclose the content provider can now control and monitor access to its site (column 2, lines 66-67), including a daemon 15 that monitors which files are being uploaded (column 5, lines 13-14). Moreover, Armbruster et al disclose all packets are forwarded to Ethernet port 1/4 in the ISP 8 and subsequently to the local cache

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server, wherein the client's browser via the DNS (Domain Name Server) 20 and, using UTP, resolves and returns the IP address of www.cp3.com. Once returned, a TCP connection is set up in the usual way through the Internet 9 and all IP packets are routed, by the ISP router 17, in a standard fashion to the client 16 from the content provider 12 (column 5, lines 56-67). Armbruster et al also disclose a cache located at an ISP's point-of-presence (column 3, lines 34-36), wherein the ISP includes a local caching complex 10, consisting of servers and storage devices for identifying and storing cacheable web pages, filtering software, and web sites (column 3, lines 59-64), including the URLs associated with the cached items (column 4, lines 45-49), and forwarding packets to the ISP local cache (column 5, lines 56-60). In addition, Armbruster disclose the content provider's web site 12 is partitioned and cached. If a client 16 connected to ISP provider 8 wishes to access this site three routing scenarios are possible, including (1) requests for uncached material, (2) requests for cached material that is present at the ISP and (3) requests for cached material that isn't present (column 5, lines 26-32). As a result, Roth et al in view of Armbruster et al, in further view of Bull et al indeed disclose Applicant's claimed limitations.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre Boyce whose telephone number is (571)272-6726. The examiner can normally be reached on 9:30-6pm M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on (571) 272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andre Boyce/
Primary Examiner, Art Unit 3623
September 27, 2010